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The Role of the Insolvency and Bankruptcy Code, 2016 in Strengthening MSMEs: A Study of Post-COVID Amendments and Judicial Intervention

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The Role of the Insolvency and Bankruptcy Code, 2016 in Strengthening MSMEs: A Study of Post-COVID Amendments and Judicial Intervention

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Abstract
The economic disruption caused by the COVID-19 pandemic severely impacted Micro, Small, and Medium Enterprises (MSMEs), exposing structural vulnerabilities in credit access, liquidity, and insolvency resolution. This research paper critically examines the role of the Insolvency and Bankruptcy Code, 2016 (IBC) in revitalising MSMEs, with particular focus on post-COVID regulatory amendments and evolving judicial intervention. It analyses key policy responses, including the suspension of insolvency proceedings under Section 10A, the enhancement of the minimum default threshold, and the introduction of the Pre-Packaged Insolvency Resolution Process (PPIRP) specifically tailored for MSMEs, aimed at ensuring faster and less disruptive restructuring.
The study evaluates the effectiveness of these measures in balancing creditor rights with the need to preserve distressed yet viable MSMEs. It further explores significant judicial pronouncements, including Swiss Ribbons Pvt. Ltd. v. Union of India and Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta, which have shaped the interpretative framework of the IBC and reinforced principles such as creditor primacy and time-bound resolution. The paper highlights how courts have played a pivotal role in ensuring procedural clarity while adapting insolvency jurisprudence to pandemic-induced challenges.
However, the research identifies persistent limitations, including procedural delays, inadequate institutional capacity, and limited awareness and accessibility of PPIRP mechanisms among MSMEs. It argues that while the IBC framework has demonstrated resilience and adaptability, its impact on MSME revival remains uneven. The paper concludes that sustained reforms—such as strengthening institutional infrastructure, simplifying procedures, and enhancing stakeholder awareness—are essential to fully realise the IBC's potential as a tool for economic recovery and long-term MSME sustainability.

Keywords: *Insolvency and Bankruptcy Code, MSMEs, COVID-19, PPIRP, Section 10A, Insolvency Resolution, Judicial Intervention, Economic Recovery, Creditor Rights, India*

Introduction

The Insolvency and Bankruptcy Code, 2016 (IBC 2016) is a ground breaking legal framework that aims to simplify, accelerate, and enhance India's insolvency and bankruptcy resolution process. Insolvency resolution for individuals, partnership entities, and corporations is governed by an all-encompassing legal framework. May 2016 saw the bill's passage through both houses of parliament, the Lok Sabha and the Rajya Sabha, and the same month saw the bill receive presidential assent. On December 1, 2016, it superseded the prior regulations controlling insolvency and bankruptcy proceedings in India. Indian lawmakers passed the IBC 2016 in part to boost the country's position on the global "ease of doing business" index. Enterprises were discouraged from pursuing insolvency and bankruptcy in the past due to the procedure's unpredictability, fragmentation, and length. Addressing these challenges and enhancing the country's business climate are the goals of the IBC 2016. A time-bound insolvency resolution is proposed by the new insolvency code. Starting from the date the resolution process is started, the insolvency resolution procedure is expected to be finished within 180 days, with an extension of up to 270 days possible. The primary objective of the IBC 2016 is to provide a straightforward and efficient framework for bankruptcy resolution in order to encourage entrepreneurship and aid financial institutions and banks in the financing process.[1] Efficient use of assets, maximization of creditor value, speedy resolution of the bankruptcy process, and, wherever feasible, resurrection of the corporate debtor are the primary goals of the IBC 2016. When compared to other insolvency statutes in India, the IBC 2016 is more streamlined, coherent, and effective; moreover, it permits insolvency proceedings to span international borders. India has long recognized the need for a robust and efficient bankruptcy system, which is why the Insolvency and Bankruptcy Code 2016 (IBC 2016) has been in place for quite some time. For corporate insolvency cases, India's insolvency and bankruptcy laws were disjointed, slow, and lacking in legal resources before the IBC 2016 came into effect. In the past, debt settlement in India was a disjointed and tedious procedure since insolvency and bankruptcy regulations were divided among many statutes. No comprehensive and well-coordinated framework was in place to handle insolvency and bankruptcy matters under the current legislation, which included the Sick Industrial Companies (Special Provisions) Act, 1985 and the Recovery of Debts Due to Banks and Financial Institutions Act, 1993.[2]

The government of India launched a massive reform drive after realizing they needed a systemic approach to fix these problems. Established in 2014 to review

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[1] Mittal, C.U. (2023) IBC, 2016 - objective, insolvency resolution process, challenges & way forward, TaxGuru. Available at: https://taxguru.in/corporate-law/ibc-2016-objective-insolvency-resolution-process-challenges-wayforward.html (last visited: 15 March 2026).

[2] Krishna, A. (2023) A historical evaluation of insolvency and bankruptcy laws in India, LawBhoomi. Available at: https://lawbhoomi.com/a-historical-evaluation-of-insolvency-and-bankruptcy-laws-in-india/ (Last visited: 11 March 2026).

current insolvency laws and propose changes, the Bankruptcy Law Reforms Committee (BLRC) is presided over by Dr. T.K. Viswanathan.[3]
December 2015 saw the introduction of the IBC, 2016 in Parliament, which was based on BLRC recommendations. On May 28th, 2016, the IBC 2016 was passed after extensive discussions and feedback from interested parties. A more streamlined and effective legal framework for insolvency and bankruptcy processes in India was established by the Code, which combined and superseded previous insolvency statutes. As part of its attempts to reform its insolvency law, India introduced the Insolvency and Bankruptcy Code (IBC) in 2016. Prompt settlement of insolvency proceedings, maximizing of assets, safeguarding of creditors' rights, encouragement of entrepreneurship, and facilitation of doing business were among its primary goals. The IBC 2016 has been significantly interpreted by courts and has been subject to multiple revisions since it was passed. It has revolutionized the corporate insolvency environment by easing the resolution of many troubled businesses and promoting a debt settlement strategy that is more focused on the market.

Insolvency in the Context of Companies Section 271(1)(a) of the 2013 Act, which dealt with the winding up of businesses by the Tribunal due to a lack of ability to pay debts, has now been replaced by Section 255 of the Code. The same is currently dealt with under Sections 7 to 9 of the Bankruptcy and Bankruptcy Code, 2016, which deal with financial and operational creditors initiating the corporate insolvency resolution procedure.

Only when a "default" in debt payment by a corporate person may an application to the adjudicating authority National Company Law Tribunal (NCLT) for the beginning of a corporate insolvency resolution procedure be submitted. Under this respect, it's worth noting that the term "default" is described in the Code as a corporate person's failure to settle an obligation, whether in full or in part, that has become due and payable. This suggests that, under the *IBC*, 2016, insolvency resolution procedures can now be initiated against even a financially solvent corporation that has defaulted on its debts, because the same would come under the Code's definition of "default."[4] Poor management and financial restrictions are the primary causes of insolvency. This is much more common in smaller businesses.

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[3] The report of the Bankruptcy Law Reforms Committee Volume I Available at: https://www.ibbi.gov.in/BLRCReportVol1_04112015.pdf (Last visited: 11 March 2026)
[4] Bhagwati, Jaimini. *Insolvency and bankruptcy code (IBC) and long-term bulk lending in India*. Centre for Social and Economic Progress, 2022.

The following are the reasons in detail:

- **Effect of Knocking:** If the parties are getting defaulter in the market and are not in the position to repay the amount to the Banks then it will be turn into the insolvency deal for the banks.
- **Market:** The Company failed to see the need for change. They will not be able to catch the changes that will occur in the market.
- **Management:** inability to acquire appropriate skills, sloppy bookkeeping, a lack of information systems, and a slew of other factors on which management must take a firm stance on each and every factor that will influence them directly or indirectly.
- **Commercial businesses have a poor track record:** If the business is failed to measure the risk factor that had been associated in the market then business will fall into the poor performance in the actual surface of the market and they will ultimately increase the risk for them into the actual ground.
- **Lack of understanding about business practices:** It is critical to have a thorough understanding of even the most fundamental business operations. Entering into a contract by a corporate body without being informed of contractual duties, for example, is frequently a fatal error.
- **Insufficient finances to pay the expenditures of establishing a profitable business:** Some enterprises require funds and time to be viable, and in many circumstances, the commercial just simply does not have them.

Covid -19 IBC and MSME

India's path towards economic deregulation, which gained momentum in the early 1990s, played a crucial role in fostering an environment conducive to entrepreneurship, innovation, and the growth of private enterprises. The liberalised market created fresh opportunities and reduced regulatory hurdles, leading to a significant increase in the formation of micro, small, and medium enterprises (MSMEs) and a rise in individual-led initiatives. However, this swift economic growth also introduced greater financial risks, particularly during economic instability, market volatility, and unexpected challenges, such as those brought on by the COVID-19 pandemic.[5] The pandemic disrupted global and domestic economies, critically affecting the operations and financial sustainability of MSMEs throughout India. In response to these challenges, the government implemented several relief measures to assist businesses in coping with the economic pressures resulting from the pandemic. Among these measures were amendments to the insolvency framework, which involved raising the minimum threshold for initiating insolvency proceedings to one crore rupees and

[5] Manoj Kumar Anand and Prof. Rajiv Sharma, Effects of Individual Insolvency and PPRIP (Pre-Packaged Insolvency Resolution Process) on the Indian Business Environment, Vol 5 Issue 6, JVPA, 1970-1978 (2024) https://www.granthaalayahpublication.org/Arts-Journal/ShodhKosh/article/view/5122

temporarily halting the initiation of insolvency cases for defaults occurring from 25 March 2020, until 24 March 2021.[6] Against this backdrop, the Pre-Packaged Insolvency Resolution Process (PPIRP) emerged as a new tool designed to support the rehabilitation of financially troubled corporate debtors. PPIRP combines informal negotiations outside of court with formal insolvency processes, allowing for a more adaptable and efficient resolution pathway. Although the concept lacks a uniform definition across different jurisdictions, it generally entails a pre-agreed restructuring strategy between the debtor and creditors, established before the commencement of formal insolvency actions. The implementation of this process sparked both optimism and scepticism among various stakeholders. For MSMEs, vital components of India's economy due to their role in employment and GDP, PPIRP offered a much-needed alternative for recovery. These businesses, particularly those engaged in credit-related activities, lacked prompt legal options when the threshold for filing insolvency proceedings was raised from one lakh to ten lakh rupees. Integrating the pre packaged insolvency framework into India's legal system signifies a progressive advancement aligned with the goals of the Insolvency and Bankruptcy Code (IBC). Rather than providing a thorough evaluation of the IBC, the emphasis here is on how PPIRP enhances the existing framework to tackle specific difficulties experienced by smaller enterprises, especially during financial crises.[7]

The Insolvency and Bankruptcy Code (IBC) has benefited corporate debtors and their creditors. For the promoters of the corporate debtor, it presents a systematic chance to address outstanding debts and, in certain situations, to reclaim control of their business. At the same time, financial and operational creditors benefit from a straightforward process to recover their funds. While liquidation may seem faster, it often leads to harmful long-term effects for the debtor and the broader economy. This threat is particularly acute for Micro, Small, and Medium Enterprises (MSMEs), which frequently encounter issues such as a lack of interest in their assets and the submission of unattractive resolution proposals. Many MSMEs do not have the financial resources, specialised knowledge, or personnel necessary to navigate the intricate and lengthy Corporate Insolvency Resolution Process (CIRP), making it challenging to demonstrate their continuing viability. An essential benefit of the Pre-Packaged Insolvency Resolution Process (PPIRP) is its adaptability. In some cases, before commencing a pre-pack, the corporate debtor might pursue a management buyout, which leads to the transfer

[6] Kushagra Gahoi and Akash Krishnan, Comparative Analysis of Key Provisions of Corporate Insolvency Resolution Process and Pre-Packaged Insolvency Resolution Process under the Insolvency and Bankruptcy Code, 2016, Vol 4 Issue 4, IJLMH, 1238 – 1253 (2021) https://ijlmh.com/wp-content/uploads/Comparative-Analysis-ofKey-Provisions-of-Corporate-Insolvency-Resolution-Process-and-Pre-Packaged-Insolvency-Resolution-Processunder-the-Insolvency-and-Bankruptcy-Code-2016.pdf

[7] Aaradhya Mandloi, Pre-Packaged Insolvency in India: A Progressive Adoption Meeting the Objective Standards of a Good Insolvency Regime, Research Gate (17 March 2026) https://www.researchgate.net/publication/355667251_PrePackaged_Insolvency_in_India_A_progressive_adaptation_meeting_the_objective_standards_of_a_good_insolvency_regime

of assets to another company. However, such dealings may not obtain prior consent from key regulatory authorities such as the Competition Commission of India, the Securities and Exchange Board of India, or the Reserve Bank of India. Creditors asserting rights over the company's assets can legally challenge these transactions, and such disagreements often cause procedural holdups and a decline in asset value over time. The pre-pack approach provides an effective solution by considerably shortening resolution timeframes while ensuring adherence to legal requirements. It combines the formal insolvency procedures under the IBC with the informal debt restructuring techniques commonly utilised by banks. Under PPIRP, a resolution plan is formulated and consented to before the formal court proceedings commence. This plan is then presented to creditors for discussion and approval before submission to the National Company Law Tribunal (NCLT). Given its framework, the effectiveness of a pre-pack largely relies on the collaboration and agreement of the involved parties, especially the promoters. Their participation is crucial in facilitating negotiations and obtaining creditor endorsement. A well-structured pre-pack system can motivate debtors to tackle their financial difficulties through early, out-of-court resolutions, thus alleviating pressure on the judicial system and supporting the timely recovery of businesses.[8]

This research seeks to critically evaluate the IBC's influence on MSMEs, analyzing its effectiveness in reconciling creditor rights with the sustainability of distressed businesses. The study aims to determine if the IBC has strengthened MSMEs or unintentionally intensified their vulnerabilities by examining procedural innovations, recovery outcomes, and systemic obstacles. The study is designed to elucidate the interaction of legal changes, economic necessities, and community realities, providing insights on policy deficiencies and avenues for sustainable reform.

Comparison of CIRP, PIRP under IBC and other laws w.r.t. MSME
Key Differences Between SICA and the Code:
i. Objective of legislations - The mission of SICA is to identify failing and at-risk businesses in a timely manner and help them recover, while the mission of the IBC is to assist insolvent businesses in resolving their issues through the use of restructuring tools, maximizing the value of their assets, encouraging entrepreneurship, increasing access to credit, and ensuring that all stakeholders' interests are balanced.
ii. Who triggers the process - Under the Code, a company's health status is not necessary for an application to be filed with the NCLT to initiate a CIRP in the event of default; however, under SICA, the Board of Directors of the company,

[8] Hardik N Sawant, Is Pre-Pack Paradigm the future of Indian Insolvency Laws, iPleaders (18 July 2025, 06:08 AM) https://blog.ipleaders.in/is-pre-pack-paradigm-the-future-of-indian-insolvency-laws/

the Central Government, the Reserve Bank of India, the State Government, a Public Financial Institution, a State Level Institution, or a Scheduled Bank may refer a sick company to the BIFR.[9]

iii. Amount of default - Insolvency procedures can be initiated under the Code at a default threshold of Rs. 1 Crore (this ceiling was raised from Rs. 1 Lakh by the Amendment Act of 2020), but the SICA is activated when a company's net value drops below 50%. Because half of a company's net worth has already been degraded by the time BIFR decides revival or liquidation, it is already too late to begin a process under SICA. Thus, IBC offers a secure way to initiate a procedure for resolving corporate insolvency and swiftly revives the business before its net worth begins to decline.

iv. Moratorium Period - In SICA procedures, a moratorium term is not provided, but in IBC proceedings, the NCLT declares one when the application is admitted.

v. Call for claims - In bankruptcy procedures, the NCLT requests claims, but SICA does not.

vi. Resolution Professional - When a firm is being revived under SICA, an insolvency resolution professional (IRP) is appointed by the NCLT under the Insolvency and Bankruptcy Code (IBC) to take over the company.

vii. CoC - The decisions are taken by a CoC that is created under the IBC proceedings, and the IRP or RP acts upon the decisions of the CoC. Conversely, SICA does not constitute any such committee of creditors. To put it another way, SICA was not a creditor-inpossession regime, but the Code is.

viii. Time-bound process - While SICA does not have a time-bound revival procedure and often admits companies for additional inquiry after one to two years, the Code provides a time-bound resolution mechanism.

ix. Misuse by Debtor companies - The debtor companies abused SICA to delay the proceedings and avoid paying creditors. This happened under the IBC proceedings, but it can't happen under those rules because the creditors make all the decisions and the CoC and NCLT both approve the resolution plan.

x. Waterfall mechanism - In the case of liquidation, SICA does not include a waterfall system for the allocation of assets. However, in the case of liquidation, the Code establishes a waterfall process that improves creditors' rights over the allocation of assets. Paying workers comes first, followed by equity, then protecting the rights of secured creditors. To sum up, the ill company's closure was decided upon in court during SICA procedures. It took a long time for this treatment to finish and an even longer time for the nausea to go away. In business, time is money, and a failing company loses capital every single day. Because of its method and strategy, SICA was unable to resolve these challenges.

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[9] Wazalwar, Prachi Manekar. "National Company Law Tribunal and National Company Law Appellate Tribunal: Law, Practice & Procedure." (2021): 1-900.

The Delhi High Court, in *Dwarkadhish Sakhar Karkhana Ltd. v. Ministry of Corporate Affairs & Anr.*[10], examined the constitutional validity of these restrictive eligibility conditions, observing:

"The legislature has made a conscious policy choice to limit this expedited mechanism to smaller enterprises with manageable debt profiles, recognizing both their vulnerability and their significance to the economic ecosystem. The eligibility thresholds reflect legitimate classification based on intelligible differentia bearing rational nexus to the legislative objective of providing tailored resolution options to entities with different scales, complexities, and systemic impact."

The Adjudicating Authority's role in PIRP is defined under Section 54C, which requires it to either admit or reject an application within 14 days, significantly shorter than the timeline for regular CIRP applications. This accelerated timeline was judicially examined in *Vijaykumar Iyer, Resolution Professional of Rainbow Denim Ltd. v. Ind-Swift Laboratories Ltd.*,[11] where the Supreme Court emphasized:

"The compressed timelines under Chapter III-A reflect the legislative intent to create a genuinely expedited mechanism rather than merely a truncated version of the regular CIRP. These timelines are not merely directory but mandatory, binding both the corporate debtor and the Adjudicating Authority, given the explicit statutory language and the framework's underlying purpose of swift resolution."

In *Metalyst Forgings Ltd. v. KKV Naga Prasad*,[12] the Mumbai Bench of the National Company Law Tribunal (NCLT) addressed the implications of this model:

"The debtor-in-possession feature represents the most significant departure from the regular CIRP framework. This arrangement preserves management continuity and operational stability but creates a unique monitoring role for the Resolution Professional, who must balance oversight responsibilities with respect for management autonomy. This delicate balance requires judicious interpretation of the RP's powers under Section 54F to ensure the mechanism neither devolves into management abuse nor reverts to de facto creditor control."

One of the distinct phases of the PIRP process is the pre-filing debt restructuring negotiations, followed by the filing of the application along with a base resolution plan, followed by the public announcement and the collection of claims, followed by the consideration of the base plan or the invitation of competing plans, and finally the approval process. Committee of Creditors of Small Business Fittings Pvt. Ltd. v. Registrar of Companies was the case in which the procedural

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[10] *Dwarkadhish Sakhar Karkhana Ltd. v. Ministry of Corporate Affairs & Anr.* (W.P.(C) 8058/2021),

[11] *Vijaykumar Iyer, Resolution Professional of Rainbow Denim Ltd. v. Ind-Swift Laboratories Ltd.* (2022) 2 SCC 104

[12] *Metalyst Forgings Ltd. v. KKV Naga Prasad* (2022 SCC OnLine NCLT Mum 2231)

mechanics were investigated. The National Company Law Appellate Tribunal (NCLAT) made the following observation within the case:

"The sequential structure of the PIRP process is designed to front-load negotiations and expedite formal proceedings. This hybrid mechanism preserves certain elements of regular CIRP—including creditor approval thresholds, moratorium protections, and judicial oversight—while compressing timeframes and reducing procedural formalities. The framework represents a calibrated attempt to balance stakeholder interests through a more collaborative approach to resolution."

Conclusion

In India, as in many other countries, the micro, small, and medium-sized enterprise (MSME) sector is an important driver of economic growth, new job creation, and innovation. Global insolvency systems have attempted to adapt and offer effective methods for the resurrection of MSMEs, acknowledging their inherent vulnerabilities, particularly during economic downturns. The Pre-Packaged Insolvency Resolution Process (PPIRP) under the Insolvency and Bankruptcy Code (IBC) is a revolutionary change in this regard that has just been implemented in India.

In order to provide a quick, cheap, and efficient solution for financially troubled MSMEs, the PPIRP has developed a unique hybrid insolvency framework. It merges the economic benefits of informal, out-of-court discussions with the legal certainty of official insolvency procedures; it was introduced in India in April 2021 through Chapter IIIA modifications to the IBC.

There are significant differences between the conventional CIRP and PPIRP. There is usually a formal bidding process in a CIRP to determine the resolution plan. On the other hand, PPIRP ensures that all parties are on the same page about the settlement plan before even applying to the Adjudicating Authority for final approval. A fundamental aspect of PPIRP is the 'debtorin-possession' (DIP) model, which permits the current management to maintain oversight of the business activities during the resolution process. This is especially true for micro, small, and medium-sized enterprises (MSMEs), since their limited resources and complex operations frequently make it such that only the current promoters have the extensive expertise needed to run the business efficiently and keep its value intact. By avoiding the stigmatization of official insolvency procedures, the DIP model ensures business continuity, which in turn reduces operational disruption, keeps jobs, and safeguards enterprise value.

To ensure that the process is applied judiciously to worthy MSMEs, certain conditions must be fulfilled in order to launch a PPIRP in India:

Default Threshold: A minimum default of INR 10 lakh must have been incurred by the Corporate Debtor (CD). Be advised that PPIRP will not be applicable in the event that the default amount over INR 1 crore.

Prior Insolvency History: In order to be eligible for PPIRP, the MSME must have not participated in or finished a CIRP in the three years leading up to the planned start date.

Simultaneous Proceedings: CIRP and PPIRP cannot both be active at the same time. Hence, the MSME can't be participating in any ongoing CIRP.

Eligibility of Resolution Applicant: In order to apply for a resolution, the MSME must meet the requirements of Section 29A of the Indian Business Code, which means it must not be a disqualified organization.

Liquidation Status: There can be no liquidation decision against the MSME under Section 33 of the IBC.

Creditor Approval: In order to initiate a PPIRP, it is essential to have the approval of 66% of the unconnected financial creditors (FCs).

Base Resolution Plan (BRP): Prior to the financial creditors reviewing the CD's base resolution plan, the CD is responsible for its preparation. This pre-arranged plan is a feature of PPIRP that simplifies the process of getting judicial approval.

Strict Timelines: The Adjudicating Authority has fourteen days from the date of application submission to decide whether to accept or reject the application. After being accepted, the parties have 90 days to submit a resolution plan to the NCLT for approval or rejection. The NCLT then has an additional 30 days to consider the plan. A maximum of 120 days is allowed by law for the whole PPIRP. The PPIRP will be terminated if a plan is not submitted within 90 days. This setup makes guarantee that money problems can be handled quickly, cheaply, and effectively before the company's worth drops.

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